

SEP. 23. 2004 7:14PM

PABST PATENT GROUP

RECEIVED
CENTRAL FILE CENTER

NO. 1636 P. 4

SEP 23 2004

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellant: Bruce A. Yankner and Philip Nadeau

Serial No.: 10/086,398

Art Unit: 1617

Filed: February 28, 2002

Examiner: Theodore J. Criares

For: *METHODS FOR DECREASING BETA AMYLOID PROTEIN*

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

APPEAL BRIEF

Sir:

This is an appeal from the final rejection of claims 23-29 in the Office Action mailed February 24, 2004, in the above-identified patent application. A Notice of Appeal was filed on July 23, 2004. The Commissioner is hereby authorized to charge \$330.00, the fee for the filing of this Appeal Brief for a large entity, to Deposit Account No. 50-3129. It is believed that no additional fee is required with this submission. However, should an additional fee be required, the Commissioner is hereby authorized to charge the fee to Deposit Account No. 50-3129.

*Fee Payor
Only*

/07/2004 MAY22 00000002 503129 10086398

FC:1402 330.00 DA

450509424v1

1

CMCC 654 DIV(2)
078836.00059

BEST AVAILABLE COPY

U.S.S.N. 10/086,398
Filed: February 28, 2002
APPEAL BRIEF


(8) SUMMARY AND CONCLUSION

The prior art does not suggest that lowering cholesterol would have any effect on A β production in neuronal cells. The dosages required to decrease production of A β protein is different from that required to treat atherosclerosis, even though the serum component, cholesterol, is the same. Since the dosage is different, the claims are novel.

The prior art does not disclose the use of cholesterol lowering agents to decrease production of A β protein and therefore does not lead one to the selections required for one of ordinary skill in the art to make and use the claimed composition.

For the foregoing reasons, Appellants submit that claims 23-29 are patentable.

Respectfully submitted,


Rivka D. Monheit
Reg. No. 31,284

Date: September 23, 2004

PABST PATENT GROUP LLP
400 Colony Square, Suite 1200
1201 Peachtree Street
Atlanta, Georgia 30361
(404) 879-2152
(404) 879-2160 (Facsimile)

450509424v1

10

CMCC 654 DIV(2)
078856.00059